

Medicaid COVID-19 PHE Waivers & Flexibilities – 1115 Attachment K

Type	Form	Description of Appendix K Amendments for §1915(c) HCBS Waiver Policy	Relevant Regulatory Authority	Effective Date*	States and Territories with Approved Appendix K Amendments
§1115 Demonstration	Individual state Attachment K flexibility	Access & Eligibility -Permit an increase the individual cost limit for the waiver to enable more individuals to access HCBS. Such an increase allows individuals to enter or stay in the waiver, who because of the emergency situation, require services and supports that exceed the previously imposed cost limits. -Allow states operating waivers for a fairly narrow target group to broaden the population served through that waiver to ensure that individuals in the state have access to a broad array of HCBS.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	TN (1 total)
§1115 Demonstration	Individual state Attachment K flexibility	Services -Temporarily modify a service scope or coverage -Allow for exceptions to the service limitations in order to ensure the health and welfare of individuals served - Temporarily add services to an existing waiver in order to respond to the emergency -Permit services to be provided in out of state settings if not already allowed in the state's approved waiver.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	AZ, CA, DE, HI, NJ, NM, RH, TN, VT (9 total)
§1115 Demonstration	Individual state Attachment K flexibility	Family Caregivers or Legally Responsible Individuals Permit family caregivers or legally responsible relatives to participate in the delivery of services in a way that differs from the policies set forth in the approved waiver.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	HI, NJ, NM, VT (4 total)
§1115 Demonstration	Individual state Attachment K flexibility	Temporarily modify provider qualifications, types, etc. -Temporarily modify provider qualifications in order to ensure that waiver participants receive necessary services - Expand the pool of available providers or to include non-traditional waiver service providers in the event of an emergency - Identify additional settings where services can be provided in situations where individuals are unable to receive services in the settings where they would ordinarily receive them.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	AZ, DE, HI, NJ, NM, RH, TN (7 total)
§1115 Demonstration	Individual state Attachment K flexibility	Process for Level of Care Evaluations and re-evaluations Temporarily modify processes for level of care waiver eligibility evaluations or re-evaluations, including the required timeframe in which the level of care re-evaluation must be completed. Note, states may not extend the timeframes for re-evaluations beyond 12 additional months past when the level of care is due.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	AZ, DE, HI, NJ, NM, RI, TN, TX, VT (9 total)
§1115 Demonstration	Individual state Attachment K flexibility	Payment Rates Adjust the payment and utilization estimates contained in the approved waiver.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	AZ, NJ, RI, TN (4 total)

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§1115 Demonstration	Individual state Attachment K flexibility	Service Plan Modify the state's person-centered service plan development process, including individuals who may be instrumental in the development of such plans. Such modifications include emergency specific risk assessment and mitigation techniques.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	AZ, DE, HI, NM, RI, TN, VT (7 total)
§1115 Demonstration	Individual state Attachment K flexibility	Incident Reporting Temporarily modify incident reporting requirements, medication management, or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances. Changes to incident reporting include the expansion of individuals responsible for reporting incidents or adjustments to the method or timelines for data collection.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	NJ, NM (2 total)
§1115 Demonstration	Individual state Attachment K flexibility	Payment Allow payment for services for the purpose of supporting waiver participants in an acute care hospital or short-term institutional stay when necessary supports are not available in that setting or when the individual requires those services for communication and behavioral stabilizations and such services are not covered in such settings. Note, this is only allowed in an Appendix K amendment as a temporary change during an emergency which should not exceed 30 days.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	AZ, HI, NJ, NM, TN (5 total)
§1115 Demonstration	Individual state Attachment K flexibility	Retainer Payments Allows states to make retainer payments to personal assistants when the waiver participant is hospitalized or absent from his/her home for a period of no more than 30 days.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	AZ, DE, HI, NJ, NM, RI, TN (7 total)
§1115 Demonstration	Individual state Attachment K flexibility	Self Direction Expand the services available for self-direction, or expand the decision making authority (for employer or budget authority) that has been imparted to individuals in the waiver. Additionally, the state may seek to temporarily add participant-directed goods and services as a service available under the waiver to enable the individuals to obtain goods and services that meet specific needs arising from the emergency situation.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	NJ (1 total)
§1115 Demonstration	Individual state Attachment K flexibility	Other Changes Necessary Temporarily modify waivers that are permissible under 1915(c) waiver authority during an emergency situation, for example, changes to billing processes, use of contracted entities or other changes needed by the state to address imminent needs of individuals in the waiver program.	§1115 Demonstration; §1915(c) HCBS Waiver	01/27/2020	HI, RI, TX (3 total)

*Attachment K amendments can be utilized by states during emergency situations and do not require a Secretary declared PHE. As a result, states were able to utilize Attachment K authority to amend the home and community-based services requirements in their §1115 Demonstrations in response to the COVID-19 outbreak before the Secretary declared it a public health emergency. The December 2020 State Health Official letter stipulates that January 27, 2020 or any later date elected by the state is the effective date, and the termination date will be no later than six months after the expiration of the PHE.